



UNITED STATES PATENT AND TRADEMARK OFFICE

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THM

Paper No. 14

In re application of
Martin Schallner et al.
Serial No. 09/532,144
Filed: March 31, 2000
For: LAYER SEQUENCE BUILT ON A SUBSTRATE
IN THIN-FILM TECHNOLOGY

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF
ABANDONMENT, filed August 7, 2003, for failure to timely provide formal drawings as
indicated in the Notice of Allowability mailed January 29, 2002.

DECISION

Since petitioner asserts that a timely reply was submitted, the request qualifies as a petition
under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the
instant petition indicates that the request has merit.

Petitioner's evidence of timely filing includes a copy of the return postcard; date stamped
by the office, indicating the Office in fact received the Formal Drawings.

Despite this evidence, the MPEP sets forth:

37 CFR 1.181(f) provides that, inter alia, except as otherwise provided,
any petition not filed within 2 months from the action complained of may be
dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to
withdraw the holding of abandonment not filed within 2 months of the mail
date of a notice of abandonment (the action complained of) may be
dismissed as untimely. 37 CFR 1.181(f).

In the instant case, the current petition was not received with the Office until more than a
year after the mailing of the Notice of Abandonment. In view of this policy, the current
petition is deemed untimely. Petitioner indicates that a timely petition was filed but due to
error an incorrect serial number was provided to the Office, thus prohibiting consideration.
However, no evidence of this earlier submission is provided.

Therefore, the Petition is **DISMISSED** until such time as petitioner provides sufficient explanation of the delay in filing the petition.

After mailing of this decision, the case will be returned to the File Depository.



Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743